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ARIZONA CORPORATION COMMISSION
OFFICE OF CHAIRWOMAN LEA MÁRQUEZ PETERSON

December 1, 2021

RE: In the Matter of Resource Planning and Procurement in 2019, 2020, and 2021. (Docket No. E-00000V-19-0034)

My Fellow Commissioners and All Interested Parties:

I am concerned that utilities and financially interested stakeholders will seek to overbuild renewable energy resources in the utilities' 2019 integrated resource plans ("IRPs") and do so in the name of achieving public policy objectives, contrary to the primary purpose of performing utility IRPs.

Public utility commissioners, consumer advocates, and public interest organizations, including stakeholders that have participated in this docket and others,[1] have clearly stated that they believe utility overbuilding poses a direct threat to ratepayers and should be prevented.[2] They have also stated that the pursuit of prevailing public policy objectives in other jurisdictions has already resulted in the buildout of excess renewable capacity and overgeneration of renewables during non-peak periods and shoulder months, which customers are paying for whether they are using the energy or not.[3]

Yet, from my perspective, the last four years at the Commission have seemed to reflect a complete disregard for the risks of overbuilding, at least as far as it relates to renewables, which require several times the amount of capacity as conventional energy resources to provide the equivalent amount of reliability. Indeed, many concerned onlookers would likely agree that the last four years at the Commission could be characterized as a relentless effort to build more renewables, regardless of the cost to consumers or actual demand of the grid.

With a strong financial incentive to overbuild, the Commission and consumer advocates should be particularly concerned with the 2019-2021 planning cycle and risk that new utility investments in renewable energy resources will likely represent the next iteration of utility overbuilding. As it is likely that utilities will adapt previous overbuilding practices to align with the prevailing public policy objectives of our time, rather than cease such overbuilding practices altogether, the utilities and financially interested stakeholders that stand to benefit from overbuilding may seek to take advantage of the 2019-2021 planning cycle as an opportunity to overbuild renewables in the name of achieving a "cleaner energy mix" or the "transition" to a "clean energy economy."

Utilities have already overbuilt coal in the 1970s, nuclear in the 1980s, and natural gas in the early 2000s.[4] I remind my fellow commissioners and consumer advocates that the primary purpose of performing this and all other IRPs, like many of the stakeholders above have stated, is to protect ratepayers from the adverse effects of utility overbuilding, before they occur.[5] This is the primary purpose of our exercise in this docket, regardless of the resource type (whether coal, nuclear, natural gas, or renewable) or the prevailing public policy objective of the time (whether environmentalism, jobs, social justice, or economic development).

[1] Including Western Resource Advocates ("WRA"), Southwest Energy Efficiency Project ("SWEEP"), Western Grid Group ("WGG"), and the Sierra Club.
[2] See Attachment A.
[3] See Attachment B.
[4] See Attachment C.
[5] See Attachment D.

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If the Commission acknowledges or approves some of the renewable energy buildouts proposed in the utilities' 2019 IRPs without first taking actions to protect ratepayers, the Commission would be giving the utilities unfettered license to overbuild, and unequivocal legal standing to collect a rate of return on, potentially hundreds of megawatts of excess renewable energy capacity at the expense of Arizona families and small businesses, regardless of whether they use the energy or not.

With the brief history and context provided in the attachments below, I simply ask my fellow commissioners and consumer advocates to uphold the Commission's primary purpose when evaluating the utilities' 2019 IRPs in this 2019-2021 planning cycle, not allow the prevailing public policy objectives of our time steer us away from our dedication to protecting ratepayers.

I thank my fellow commissioners for the opportunity to explain my sincere thoughts and concerns. I hope the attachments below will be useful to my fellow commissioners who, like myself, did not have the benefit of serving on the Commission in 1988, when the Commission adopted its fundamental IRP process.

I believe the Commission must move forward with cleaner energy mixes and justly and reasonably reward utilities for their financially prudent and proactive investments in the next generation of used and useful renewable energy resources. But I also believe the Commission must move forward in a way that does not result in adverse financial impacts to Arizona families and small businesses. I look forward to discussing this topic at a future open meeting. Thank you.

Sincerely,

Lea Márquez Peterson
Chairwoman

Attachment A

The concern for utility overbuilding is nearly universal. Public utility commissioners, consumer advocates, and public interest organizations, including stakeholders that have participated in this 2019-2021 IRP planning docket, Energy Rules docket, and others,[6] have clearly stated that they believe utility overbuilding poses a direct threat to the financial health and wellbeing of ratepayers and should be prevented, regardless of resource type.

- In October 1983, John Ahearn, former Commissioner and then-Chairman of the Arizona Residential Utility Consumer Board (now, the Residential Consumer Office ("RUCO")), stated in a quote to the Arizona Republic that "overbuilding is an acute problem within this state" and "customers are paying for it."

- In the same article, Neal Beets, then-Staff Attorney for the Arizona Center for Law in the Public Interest and future-Director of the Arizona Corporation Commission's Legal Division, noted that, "because of overbuilding," the state's largest electric utility, Arizona Public Service ("APS") had a reserve margin that was several percentage points higher than the industry norm. He went on to state that "ratepayers" shouldn't be paying for "electricity and generating capacity" that they "don't need and aren't using."[7]

- In October 1991, the Commission noted in its first decision on utility IRPs that the "increased cost of building additional generating capacity are reflected in higher electricity rates to customers."[8]

- In October 2013, Jeremy Fisher, PhD and Principal Associate at Synapse Energy Economics, testified on behalf of the Sierra Club at the Public Utilities Commission of Nevada that approving a merger between NV Energy and MidAmerican Energy Holdings Company would result in "massive overbuilding" and that the merger represented a "grab to overbuild." He went on to testify that one of the reasons the Commission adopted a "10-year self-build moratorium on APS" in 2005 was due to the "risk of overbuilding assets."[9]

- In November 2013, the California Independent System Operator ("ISO") and North American Electric Reliability Corporation ("NERC") stated in a joint report and special reliability assessment that "[t]here are compelling reliability and market reasons to avoid overgeneration situations."[10]

- In November 2014, former Commission Chairwoman Kris Mays noted in a guest opinion to the Arizona Capitol Times that allowing "utilities to overbuild new power plants" comes "at the expense of almost every Arizonan" and that allowing utilities to overbuild, such as by eliminating the state's energy efficiency mandate, would be tantamount to a "multi-billion dollar give-away to the state's regulated utilities."[11]

- In December 2017, Dave Effross, Senior Energy Policy Advisor to the WRA, and Ellen Zuckerman, Senior Associate with SWEEP, noted in their joint comments to the Commission on utilities' pending 2015 IRPs that "ratepayers" bear the costs of an "overbuilt utility system" and that approving "high levels" of "new capacity" proposed in the utilities' pending IRPs could result in "increases to the revenue requirement" and "overbuilding of the system."[12]

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[6] Including Western Resource Advocates ("WRA"), Southwest Energy Efficiency Project ("SWEEP"), Western Grid Group ("WGG"), and the Sierra Club.
[7] See Deborah Shanahan, Yes-or-no power over utility plants urged for panel, ARIZONA REPUBLIC (Oct. 10, 1983).
[8] See In the Matter of the 1992 Integrated Resource Plans, Docket No. E-00000D-90-0088, Decision No. 57589 (Oct. 29, 1991).
[9] See Direct Testimony of Jeremy Fisher On Behalf of Sierra Club, Joint Application of Nevada Power Company, Sierra Pacific Power Company, and MidAmerican Energy Holdings Company for approval of a merger, Pub. Util. Com'n Nevada, Docket No. 13-07021 (Oct. 24, 2013).
[10] See NERC and California ISO, 2013 Special Reliability Assessment: Maintaining Bulk Power System Reliability While Integrating Variable Energy Resources – CAISO Approach (Nov. 2013).
[11] See Guest Opinion from Former Chairwoman Kris Mayes, ACC proposal to eliminate energy efficiency standard a multi-billion dollar loss for AZ customers, ARIZONA CAPITOL TIMES (Nov. 17, 2014).
[12] See Joint Comments of WRA and SWEEP, Resource Planning and Procurement in 2015 and 2016, Docket No. E-00000V-15-0094 (Dec. 6, 2017).

- In November 2019, a coalition of public interest organizations representing the WRA, Environmental Defense Fund, Natural Resources Defense Council, WGG, and others noted to the California ISO that "overbuilding of new generation (that may side idle much of the time)" results in "increased costs to ratepayers."[13]

- In February 2020, Nancy Kelley, Senior Policy Advisor to WRA, stated in comments submitted to the Utah Public Service Commission regarding PacifiCorp's 2019 IRP that "[o]verbuilding resource portfolios unnecessarily is costly and can distort important retirement and resource acquisition timing decisions."[14]

- As Chairwoman Márquez Peterson stated on October 6, 2021, "Utility overbuilding is one of the most consistent and longstanding challenges the Commission has faced in performing its duties over the years to ensure safe and reliable service at just and reasonable rates." "The best approach for the Commission is to try to prevent utility overbuilding before it occurs."[15]

[13] See Comments of Public Interest Organizations: WRA, Environmental Defense Fund, Natural Resources Defense Council, NW Energy Coalition, Renewable Northwest, and Western Grid Group, In the Matter of the California ISO Extended Day-Ahead Market (Nov. 22, 2019).
[14] See Comments of WRA, In the Matter of PacifiCorp's 2019 Integrated Resource Plan, Pub. Serv. Com'n Utah (Feb. 4, 2020).
[15] See Correspondence from Chairwoman Lea Márquez Peterson, RTO Docket, Docket No. E-00000A-21-0271 (Oct. 6, 2021).

Attachment B

The next iteration of utility overbuilding is likely to come in the form of renewables. Multiple stakeholders, including stakeholders that have participated in this 2019-2021 IRP planning docket, Energy Rules docket, and others,[16] have acknowledged that, due to the variability and intermittency associated with renewable energy resources, achieving the prevailing public policy objectives of our time will require more renewable energy than is needed to meet peak demand and that the pursuit of such public policy objectives in other jurisdictions has already resulted in excess renewable capacity and overgeneration during non-peak periods and should months, which customers are paying for whether they are using the energy or not.

- In November 2011, NERC noted in its *2011 Long-Term Reliability Assessment* that the "significant shift to renewable resources" has resulted in "excess off-peak energy generation."[17]

- In November 2013, the California ISO and NERC noted in a joint report and special reliability assessment that, due to overbuilding solar in the transition to clean energy, the ISO experiences "overgeneration conditions" wherein the ISO "pay[s] entities" to take its "excess power."[18]

- In May 2017, the California ISO noted in a fact sheet titled *Impacts of Renewable Energy on Grid Operations* that the "rapid rise in solar and wind resources" is resulting in "oversupply" in which the "system frequently has too much renewable energy, without adequate customer demand to use it." The ISO continued to note that, "[a]s more renewables come onto the system, oversupply during the middle of the day, when the sun is brightest, is happening more frequently, and curtailing of solar resources is becoming a common practice."[19]

- In July 2018, Gideon Weissman, Rob Sargent, and Brent Fanshaw suggested in a report they authored for Environment America and the Frontier Group, titled *Renewables on the Rise 2018: A Decade of Progress Toward a Clean Energy Future*, that one solution to ensuring utilities have "adequate generation" to safely and reliably meet customer demand on all days and at all times of the year via renewables is by intentionally "overbuilding" wind and solar energy.[20]

- In March 2019, Josh Siegal, energy and environment reporter for the Washington Examiner, described in an opinion that a report issued by economists Jurgen Weiss, Michael Hagerty, and María Castañer at the Brattle Group, titled *The Coming Electrification of the North American Economy: Why We Need a Robust Transmission Grid*, warns policymakers that they "risk overbuilding the electricity system with surplus wind and solar."[21]

- In November 2019, the coalition of public interest organizations representing the WRA, Environmental Defense Fund, Natural Resources Defense Council, WGG, and others that filed comments with the California ISO noted in their joint filing that, "[a]s the rapid transformation of the resource mix [toward wind and

[16] Including WRA, WGG, and Solar United Neighbors of Arizona.
[17] See NERC, 2011 Long-Term Reliability Assessment (Nov. 2011).
[18] See 2013 Special Reliability Assessment, supra, note 10.
[19] See California ISO, Fast Facts: Impacts of Renewable Energy on Grid Operations (May 2017).
[20] See Gideon Weissman (Frontier Group), Rob Sargent, and Bret Fanshaw (Environment America Research & Policy Center), Renewables on the Rise 2018: A Decade of Progress Toward a Clean Energy Future, ENVIRONMENTAMERICA.ORG (Jul. 2018) ("In the long run, overbuilding wind and solar energy might allow for adequate generation even on days when there is less sun and wind.") (citing Cory Budischak, "Cost-minimized Combinations of Wind Power, Solar Power and Electrochemical Storage, Powering the Grid up to 99.9% of the Time," J. OF POWER SOURCES, 225: 60-74, 1 Mar. 2013).
[21] See Josh Siegal, Big problem facing the Green New Deal: A lack of power lines to deliver wind and solar (Mar. 20, 2019) (citing Jurgen Weiss, Michael Hagerty, and María Castañer, The Coming Electrification of the North American Economy: Why We Need a Robust Transmission Grid, (Mar. 2019)).

solar] continues across the U.S., and particularly in the West, it is becoming evident that there will be an increasing trend of excess supply in both the spring and fall."[22]

- In February 2021, lead contributors to a System Planning Working Group for Energy Systems Integration Group noted in their final report titled *Transmission Planning for 100% Clean Electricity*, that "deliberately overbuilding [renewable energy] generation and storage capacity is expensive" and that, "in order to manage weather patterns and meet demand" with more renewables, system planners would need to intentionally and "significantly" "overbuild local renewable resources." The report also noted that "[d]ramatic amounts of additional utility-scale and distributed zero-carbon generation will be needed to decarbonize the power system and maintain grid reliability" to achieve the prevailing public policy objectives of our time and meet "2035 and 2050 goals."[23]

[22] See Comments of Public Interest Organizations, supra, note 13.
[23] See Energy Systems Integration Group, Transmission Planning for 100% Clean Electricity (Feb. 2021).

Attachment C

Utilities have already overbuilt conventional energy generation. They overbuilt coal and nuclear in the 1970s and 80s; and they overbuilt natural gas in the early 2000s. Given the strong financial incentive to overbuild, it is more likely than not that utilities will adapt their overbuilding practices to align with changing political circumstances, rather than cease their overbuilding practices altogether.

A. Utilities overbuilt coal and nuclear in the 1970s and 1980s

In October 2008, Frank Huntowski, Neil Fisher, and Aaron Patterson of the NorthBridge Group noted in a publication titled *Embrace Electric Competition Or Its Déjà Vu All Over Again*, that "over the course of the 1970s and early 1980s, electric utilities built a generation supply portfolio that was far too big in absolute terms, and too heavily-weighted towards capital-intensive coal and nuclear generation." "Measured over their entire life-cycle, many of these plants represented a bad investment for ratepayers and resulted in substantial excess capacity in the 1970s and 1980s and billions of dollars in higher costs relative to alternative supply strategies."[24]

Indeed, by the end of the 1970s, over 4,850 MWs of coal-fired power plants had been built in Arizona.[25] By the end of the 1980s, over 3,937 MWs of nuclear power had been built.[26] According to one rate case decision the Commission issued in 1988, the state's largest electric utility, APS, had "38 percent more capacity than is needed during the peak demand."[27]

Although many of the baseload resources that were built during the 1970s and 80s provide safe and reliable power to Arizona consumers at affordable rates today, many of the intervenors who participated in the rate cases following those plants' construction believed that the plants had been overbuilt.[28] In the 1985 rate case for APS, for example, it was believed that APS had possibly "removed from service generating and transmission facilities in recognition that the system wide plant is far more than required." [29]

B. Utilities overbuilt natural Gas in the early 2000s

In an article published in the University of Houston Environmental & Energy Law & Policy Journal in July 2008, titled *Congress Got it Wrong: The Case for a National Renewable Portfolio Standard and Implications for Policy*, Benjamin K. Sovacool and Christopher Cooper of the Network for New Energy Choices noted that the "overbuilding of gas-fired peaking plants in the 1990s resulted in skyrocketing demand for natural gas, which in turn caused prices to surge." "Between 1995 and 2005, natural gas prices rose by an average of 15% per year, and the electricity sector's demand for natural gas increased from 24% of total natural gas consumption in 2000 to 29% in 2005."[30]

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[24] See Frank Huntowski, Neil Fisher, and Aaron Patterson, Embrace Electric Competition Or Its Déjà Vu All Over Again (Oct. 2008), page 21.
[25] Cholla Power Plant (1962-1981) (1,129 MW); Apache Generating Station (1964-1979) (490 MW); Navajo Generating Station (1974-1976) (2,409 MW); and Coronado Generating Station (1979-1980) (822 MW).
[26] Palo Verde Nuclear Generating Station (1986-1988) (3,937 MW).
[27] See, APS 1985 "Palo Verde II" Rate Case (Phase I), Docket No. E-01345A-85-0367, Decision No. 55931 (Apr. 1, 1988), page 70.
[28] See id., page 44, lines 20-25 ("In 1984, [the] Commission issued a decision in which it found that in several APS rate cases numerous questions concerning the prudence of APS's construction of Palo Verde had been raised and left unresolved. In order to address the prudence issues, the Commission entered into an agreement . . . for a joint multi-state audit.").
[29] See id., page 70, lines 2-18 ("As APS has begun to bring the Palo Verde Units online, the Company has during the same time frame possible unnecessarily mothballed other units so as to give the illusion that the Palo Verde Units are used and useful . . .. If the Company can make Palo Verde Unit 2 look used and useful by no longer using available plant, the concept of used and useful means nothing.").
[30] See Benjamin K. Sovacool and Christopher Cooper, Congress Got it Wrong: The Case for a National renewable Portfolio Standard and Implications for Policy, ENVIRONMENTAL & ENERGY LAW & POLICY J. 3:1, p.100 (2008).

Indeed, by the early 2000s, over 14,941 MWs of natural gas had been authorized in Arizona[31]—and it was during a time when the Commission had no IRP rules in effect.[32]

Although many of the natural gas resources that were constructed and brought online between the early 2000s and present day are essential to meeting peak demand and serving Arizona customers' cooling needs during Arizona's excessively hot summer months, many of the stakeholders who participated in the rate cases and IRPs following the construction of those plants believed that the utilities' respective resources mixes were over-reliant on natural gas.

The joint comments from SWEEP and WRA, for example, which warned of "overbuilding of the utility system" in the utilities' 2015 IRPs, were made primarily in the context of natural gas and the "overreliance" and "large buildout" thereof.[33]

With new opportunities to overbuild conventional energy resources diminished, the Commission and consumer advocates should be particularly concerned regarding the type of energy resources that utilities and financially interested stakeholders may seek to overbuild in the current or future IRP cycles.

Having overbuilt coal in the 1970s, nuclear in the 1980s, and natural gas in the early 2000s, the Commission and consumer advocates should be particularly concerned that utility investments in new renewable energy resources could represent the next iteration of utility overbuilding.

[31] Between 1998-2002, the Commission approved over 14,941 MWs of natural gas in Arizona. See Decision Nos. 61295 (1998) (authorizing Griffith Energy: 654 MW); 61852 (1999) (authorizing Desert Basin Power Plant: 577 MW); 62321 (2000) (authorizing West Phoenix Power Plant: 920 MW); 62324 (2000) (authorizing Red Hawk Power Station: 1060 MW); 62655 (2000) (authorizing Harquahala Generating Station: 783 MW); 62730 (2000) (authorizing Gila River Generating Station: 2,200 MW); 62740 (2000) (authorizing Duke Natural Gas Plant: 580 MW); 62989 (2000) (authorizing Kyrene Power Plant: 525 MW); 63232 (2000) (authorizing Mesquite Power Plant: 1,250 MW); 63611 (2001) (authorizing Santan Power Plant: 1,235 MW); 63863(2001) (authorizing Sundance Generating Station: 450 MW); 64357 (2002) (authorizing Arlington Valley Plant: 577 MW); 64446 (2002) (authorizing Toltec Natural Gas Plant: 2,000 MW); 64625 (2002) (authorizing Bowie Power Station: 1,050 MW); 64718 (2002) (authorizing Allegheny La Paz Generating Station: 1,080 MW).

[32] See In the Matter of the A.A.C. R14-2-704 Hearing for Resource Planning, Docket No. E-00000E-95-0506, Decision No. 60385 (Aug. 29, 1997) (authorizing a one-year pause on IRPs); Procedural Order (Mar. 15, 1999) (authorizing an indefinite pause on IRPs).

[33] See Joint Comments of WRA and SWEEP, supra, note 12.

Attachment D

The primary purpose of this 2019-2021 IRP docket and all other IRP dockets is to protect ratepayers from the adverse effects of utility overbuilding, regardless of the resource type or the prevailing public policy objective of the time; this primary purpose comes before all other public policy objectives, including the broader public policy objective of protecting the environment from the negative externalities of electric generation. According to prior Commission decisions, all parties were in general agreement with the purpose of IRPs and its desired results.

The history and context leading up to and surrounding the development of the Commission's IRP rules suggest that the Commission adopted its fundamental IRP process primarily because of past utility overbuilding. The Commission's first iteration of IRP rules were adopted within several years of the alleged overbuilding of coal and nuclear in the 1970s and 80s, and the Commission's second iteration of IRP rules were authorized within several years of the alleged overbuilding of natural gas in the early 2000s.

Based on the timing of the rules' adoption following past instances of overbuilding, it's reasonable to assume that the intent of adopting such rules was to prevent such overbuilding from occurring again, in the future. As noted in Attachment C above, the cost overruns associated with the alleged overbuilding of coal and nuclear baseload resources in the 1970s and 80s were having a direct impact on utility rates. By the mid-1980s, the Commission decided it wanted to take proactive measures[34] to contain the utilities' capital expenditures and prevent their adverse effects on ratepayers, before they occurred.

In essence, the Commission wanted to ensure that, whatever the utilities' future energy mixes may be, such mixes would not result in the kind of excess capacity and overbuilding that the Commission had witnessed prior to having IRP rules in place. For context, here are two excerpts from decisions the Commission issued in 1986 and 1991, which illustrate the circumstances leading up to, and primary purpose for, the development of the fundamental IRP process we perform today:

> *As both the cost and price of electricity escalated throughout the 1970's and 1980's, utility regulators began focusing attention on alternative ways to meet the demand for electricity. A new discipline, termed integrated resource planning, evolved that embraced the principle that utilities should strive to meet the demand for electricity in the least costly way to society.*[35]
>
> *The basic tenet of the "economic excess capacity" argument is also the premise of least-cost planning, namely, that a utility's choice of generation resources should lead to selection of the "least cost" option. Hindsight and foresight aside, the tenet is sound. Perhaps, utilities' inattention to this consideration is one reason regulatory commissions throughout the country are devoting substantial efforts to formalize least-cost planning processes within the regulatory framework. . . . [W]e will [not] lose sight of the purpose of its analysis nor of the usefulness of the in the development of the Commission's resource planning initiatives.*[36]

Hence, the development and adoption of the fundamental IRP process that the Commission uses today, as well as the specific IRP rules the Commission utilizes for the first half of the 1990s.

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[34] See Arizona Corp. Comm'n v. State ex rel. Woods, 171 Ariz. 286, 296-297 (1992), abrogated by Johnson Utilities, L.L.C. v. Arizona Corp. Comm'n, 249 Ariz. 215 (2020). ("It would subvert the intent of the framers to limit the Commission's ratemaking powers so that it could do no more than raise utility rates to cure the damage . . .." "The Commission must certainly be given the power to prevent a public utility corporation from engaging in transactions that will so adversely affect its financial position that the ratepayers will have to make good the losses, and it cannot do so in any common-sense manner absent the authority to approve or disapprove such transactions in advance. To put it simply, the Commission was given the power to lock the barn door before the horse escapes."); Miller v. Arizona Corp. Comm'n, 227 Ariz. 21, 29 (Ct. App. 2011) ("Prophylactic measures designed to prevent adverse effects on ratepayers due to a failure to diversify electrical energy sources fall within the Commission's power 'to lock the barn door before the horse escapes.'").

[35] In the Matter of the 1991 Integrated Resource Plans, Docket No. E-00000D-90-0088, Decision No. 57589 (Oct 29, 1991), page 3, lines 3-8.

[36] APS 1985 "Palo Verde II" Rate Case (Phase I), Docket No. E-01345A-85-0367, Decision No. 55931 (Apr. 1, 1988), page 69, lines 17-27.

Although the Commission's first iteration of IRP rules were adopted over 30 years ago, their fundamental purpose and intent has remained unchanged since their initial adoption in 1988. This can best be illustrated by the impact that the utilities' second wave of overbuilding had on the Commission's decision to reinstate IRPs, after the rules had been on "pause" for nearly 13 years.

In 1997, the Commission placed an indefinite "pause" on IRPs.[37] Whether as a direct result of the Commission's indefinite "pause" or merely a coincidence resulting from other, broader changes in the utility industry, nearly all the alleged natural gas that stakeholders claim had been overbuilt in the early 2000s occurred during a period between 1997 and 2010 when no IRP rules were in effect.[38] With no IRP rules in effect, it seemed the opportunity to overbuild had reemerged. The first natural gas plant the Commission approved during this time was approved within one year of the Commission's authorization to "pause" utilities' IRPs.[39]

It should come as no surprise then, that, in less than three years following the alleged overbuilding of natural gas in the early 2000s, the Commission instituted a self-build moratorium on APS and, in the same APS rate case decision, initiated a process to reinstate its IRP process.[40] By 2010, the Commission reinstated and revised its IRP rules,[41] which are the rules the Commission utilizes today.

Based on the context and timing, it seems obvious that the Commission's IRP rules would not exist, but for the alleged overbuilding of utility assets during times when no IRP rules were in place. Moreover, its sends a clear signal to the Commission and stakeholders that, when evaluating utilities' IRPs in each planning cycle, the primary purpose for the Commission is to prevent utility overbuilding in all forms, regardless of the resource type.

When the Commission developed and adopted its first iteration of IRPs rules in the late 1980s, the Commission made its primary purpose for pursuing utility IRPs explicitly clear. It stated loudly and clearly that its intent was to "minimize costs,"[42] "limit[] [the] construction of new power plants,"[43] and ensure that a "utility's choice of generation resources" would "lead to [the] selection of the 'least cost' option."[44]

Moreover, in the Commission's first decision on utility IRPs in 1991, the Commission debated extensively the question of which public policy objective was supposed to take priority when evaluating the utilities' respective IRPs: protecting the environment from the negative externalities of generating electric energy; or protecting ratepayers from the negative impacts of financially imprudent utility decisions, excess capacity, and overbuilding.[45]

Ultimately, although the Commission acknowledged that resource planning "should take environmental concerns into consideration," the commissioners serving on the Commission at the time decided that protecting ratepayers from the negative impacts of financially imprudent utility decisions, excess capacity, and overbuilding was more aligned with the Commission's duties to protect ratepayers and the primary purpose of adopting IRP rules than achieving the broader public policy objectives of externalities regulation and protecting the environment from the negative externalities of electric generation.

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[37] See In the Matter of the A.A.C. R14-2-704 Hearing for Resource Planning, Docket No. E-00000E-95-0506, Decision No. 60385 (Aug. 29, 1997) (authorizing a one-year pause on IRPs); Procedural Order (Mar. 15, 1999) (authorizing an indefinite pause on IRPs).
[38] See Certificates of Environmental Compatibility for natural gas approved between 1998 and 2002, supra, note 31.
[39] See Decision Nos. 61295 (1998) (authorizing Griffith Energy: 654 MW).
[40] See 2003 APS Rate Case, Docket No. E-01345A-03-0437, Decision No. 67744 (Apr. 7, 2005).
[41] See Notice of Proposed Rulemaking Regarding Resource Planning, Docket No. RE-00000A-09-0249, Decision No. 71722 (Jun. 3, 2010).
[42] See Proposed Rulemaking to Implement Resource Planning, Docket No. RE-00000A-88-0093, Decision No. 56180 (Oct. 14, 1988).
[43] See 1991 Integrated Resource Plans, Docket No. E-00000D-90-0088, Decision No. 57589 (Oct 29, 1991), page 6, lines 10-21.
[44] See APS 1985 "Palo Verde II" Rate Case (Phase I), Docket No. E-01345A-85-0367, Decision No. 55931 (Apr. 1, 1988), page 69, lines 17-27.
[45] Id.

In its decision, the Commission stated the following:

> *This Commission certainly recognizes the importance of protecting our fragile environment. However, there must be a careful balancing of the costs and benefits including consideration of ratepayer concerns, utility financial stability, and economic growth within the service areas . . ..*
>
> *[While] all the parties were in general agreement that resource planning should take environmental concerns into consideration . . . This Commission wants to state loudly and clearly that it has [the] goal to have financially sound utilities and responsible rates for consumers, while at the same time minimizing the effect on our fragile environment.*[46]

According to the Commission's first decision on utility IRPs in 1991, the "parties were in general agreement with" the "purpose" and "desired results" of developing and requiring utilities to IRPs.[47]

Furthermore, when the Commission reinstated its IRP rules in 2010, the Commission again addressed the priority of different policy objectives and their respective priorities when evaluating utility IRPs. In its decision in 2010, the Commission made it clear that, in the context of reducing the negative social, environmental, or economic externalities of electric generation, the reinstated IRP rules were only designed to "minimize" the "adverse environmental impacts" "to the extent feasible,"[48] meaning that the public policy objectives of cost containment and the prevention of utility overbuilding take priority over all other pursuits.

Thus, the primary purpose for evaluating utilities' IRPs in this docket and all other IRP dockets is clear. Whatever the future energy mix of a respective utility may be, the Commission must ensure that such mix does not result in the kind of overbuilding that the Commission sought to prevent prior to having IRP rules in place, regardless of the resource type or prevailing public policy objectives of the time.

The Commission and stakeholders should not deviate from this purpose in the evaluation of utility IRPs in the 2019-2021 or any other planning cycle.

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[46] See In the Matter of the 1991 Integrated Resource Plans, Docket No. E-00000D-90-0088, Decision No. 57589 (Oct 29, 1991).

[47] Id., at lines 22-23. The parties included the Commission's Utilities Division ("Staff") (which believed the Commission should require the utilities to adopt more solar and demand-side management), RUCO (which was concerned about the cost and managerial interference impacts of Staff's proposals and believed the Commission should require the utilities to utilize "an all source bidding program in which competitive markets would determine the resources selected"), and the utilities (which demanded surcharges in exchange for adopting Staff's prescriptive solar and demand-side management programs).

[48] See Decision No. 71722, supra, note 41, page 14, lines 2-5.